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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/676,448	09/29/2000	Shawn D. Cartwright	CRTW-0004	3485

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EXAMINER
HEWITT II, CALVIN L

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 08/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/676,448	CARTWRIGHT, SHAWN D.	
	Examiner	Art Unit	
	Calvin L Hewitt II	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 June 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-46* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-46* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Status of Claims

1. Claims 1-46 have been examined.

Response to Arguments/Amendments

2. The Applicant is of the opinion that the prior art of McMullan, Jr. et al. does not teach advantages that comprise selectively available environment features capable of assisting participating users to overcome at least one challenge. The Examiner respectfully disagrees, as the McMullan, Jr. et al. reference offers users a selection of advantages to choose from such as playing a video game, doing taxes using tax software, or obtaining stock information and/or sports scores (figure 1; column 4, lines 17-40; column 11, lines 12-19). The system also allows users to overcome at least one challenge, such as, preparing tax returns or to access and play a game that the user doesn't currently have access to.

Applicant's arguments with respect to claims 40, 41 and 43 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 6, 10-15, 20-28, 30-33, 35, 36, 38, 39 and 44-46 rejected under 35 U.S.C. 102(b) as being clearly anticipated by McMullan Jr. et al., 5,654,746.

As per claims 1-3, 5, 6, 10-15, 20-28, 30-33, 35, 36, 38, 39, and 44-46, McMullan et al. teach a game delivery service comprising:

- an integration system capable of integrating selectively available environment features and/or elements into a user environments (figure 1; column 3, lines 37-67; column 4, lines 1-40 and 50-63)
- an advantages server coupled to a communication system and a database for storing information indicative of environment features and elements (figure 1)
- a user account database and server (figure 1)

- updating user accounts (figure 1; column 5, lines 17-26; column 12, lines 7-50; column 13, lines 12-50)
- a communication system allowing participating users to communicate accepted offered environment features and/or elements to an integration system (figure 1; column 3, lines 37-67; column 4, lines 1-40 and 50-63)
- a transaction system cooperating with an integration system and communication system to deliver accepted offered environment features and/or elements (figure 1; column 3, lines 37-67; column 4, lines 1-40 and 50-63)
- a direct-pay transaction system (column 10, lines 26-57)
- creating environment features and/or elements (figure 1)
- tracking acceptance of environment features and/or elements (figure 1; column/line 10/9-11/45; column/line 11/62-12/30)
- means for charging users for accessing advantages (column 8, lines 1-3; column/line 10/58-11/19)
- receiving an indication by the user to acquire an advantage (abstract; column/line 10/58-11/19; column 16, lines 36-64)
- identifying and accessing desirable features (abstract; figure 1)
- tallying the usage of accessed desired environment features and/or elements (column 12, lines 7-30)

- billing system (figure 1; column 5, lines 17-26; column/line 10/26-11/19; column 13, lines 22-30; column 14, lines 37-41; column 17, lines 50-57)

Regarding collecting means, it is inherent that such a feature is present in the system of McMullan et al, as they teach subscriber authorizing pay-to-play game distribution (figure 1; column 10, lines 26-67), users paying "up front" for game access (column 14, lines 37-41), and disabling a game adapter for non-payment of subscriber bills (column 17, lines 50-57).

5. Claim 42 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Chelliah et al.

As per claim 42, Chelliah et al. use target advertising in their electronic shopping environment to offer advertisements to participating users (figures 5, 10, 12A-13; column 6, lines 59-65; column 7, lines 17-64).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 4, 7-9, 16-18, 29, 34 rejected under 35 U.S.C. 103(a) as being unpatentable over McMullan Jr. et al., 5,654,746 in view of Chelliah et al., U.S. Patent No. 5,710,887.

As per claims 4, 8 and 9, McMullan Jr. et al. teach a game delivery service (figure 1) where users can pay "up front" for arcade play or rent games for a prescribed period of time (column/line 10/26-11/12). However, McMullan Jr. et al. do not specifically recite an advertising database. Chelliah et al. disclose advertisement databases (figure 5; column 7, lines 17-23; column 11, lines 3-10; column 12, lines 34-43; column 13, lines 40-47; column 20, lines 25-42; column 23, lines 3-57). Therefore, it would have been obvious to combine the teachings of McMullan Jr. et al. and Chelliah et al. McMullan Jr. et al. define their invention as a, "... method of authorizing and controlling [Pay-to-Play] marketing and distribution of game services over a cable system" (column 10, lines 26-28). Therefore, by implementing the McMullan Jr. et al. system with the target marketing of Chelliah et al., a game distributor can increase per customer sales by rewarding subscribers for their patronage.

As per claims 7, 16-18, 29, 34, McMullan Jr. et al. teach a game delivery service (figure 1) that requires users to pay "up front" for game access (column 14, lines 37-41) and a player that displays service data (column/line 11/62-12/7). McMullan Jr. et al. do not explicitly recite displaying account information to a user. Chelliah et al. teach displaying account information and providing customers with a bill summary (column 12, lines 34-65) and narrowcast advertising that allow particular users to benefit from price adjustments (column 12, lines 34-55). Therefore, it would have been obvious to one of ordinary skill of the art to combine the teachings of McMullan Jr. et al. and Chelliah et al.. By displaying account data to a subscriber, a user can view the terms of the game rental agreement (say) before confirming the transaction (column/line 10/57-11/12).

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over McMullan Jr. et al., 5,654,746 in view of Golden et al., U.S. Patent No. 5,761,648.

As per claim 19, McMullan Jr. et al. teach a game delivery service (figure 1) where users can pay "up front" for arcade play or rent games for a prescribed period of time (column/line 10/26-11/12). However, they do not explicitly recite interactive coupons. Golden et al. teach interactive coupons (abstract). Therefore, it would have been obvious to combine the systems of McMullan Jr. et

al. and Golden et al.. Recall, McMullan Jr. et al. define their invention as a, "... method of authorizing and controlling [Pay-to-Play] marketing and distribution of game services over a cable system" (column 10, lines 26-28). Therefore, by implementing the McMullan Jr. et al. system with the interactive marketing network of Golden et al., a game distributor can increase the pool of subscribers by broadcasting their services over a communications network such as the internet (column/line 3/59-4/39).

9. Claim 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMullan Jr. et al., 5,654,746.

As per claim 37, McMullan Jr. et al. teach delivery system (figure 1) that provides gaming software to personal computers (column/line 3/48-4/7). They do not specifically recite using the internet as a communication network to provide gaming services. However, it would have been obvious to use internet, satellite or cable distribution services to allow users to download gaming software to their home terminal (column 4, lines 50-63).

10. Claims 40, 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chelliah et al., U.S. Patent No. 5,710,887.

As per claims 40, 41 and 43, Chelliah et al., teach an electronic storefront that allows service providers to offer, price, charge, bill and collect for the

creation and integration of digital content (abstract; figures 1 and 2; column 6, lines 13-25). Chelliah et al. also teach incentives and target advertising (column 6, lines 59-65; column 7, lines 49-67; column 12, lines 34-50; column 20, lines 42-67; column 23, lines 3-57). Chelliah et al. do not specifically recite performing these processes relative to advertisements or the ability of competing advertisers to replace each other's advertisements. However, as Chelliah et al. teach content aggregators such as America Online (column 7, lines 49-63), it would have been obvious for a company such as AOL to charge product distributors for target advertising services. Further, it would have been obvious for a company that markets product A to enter into an financial agreement with AOL to replace advertisements for competing product B with ads for product A, if: the contract between AOL and the makers of product B expires or a provision allows AOL to terminate a relationship with a company if it [AOL] receives a better offer for a particular ad space.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Shah-Nazaroff et al. teach a method for upgrading media features
- Vancelette teaches a system that allows a user to view content from a plurality of angles, with varying audio feeds and/or select alternative story lines

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone

number is (703) 308-8057. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James P. Trammell, can be reached at (703) 305-9768.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

c/o Technology Center 2100

Washington, D.C. 20231

or faxed to:

(703) 305-7687 (for formal communications intended for entry and after-final communications),

or:

(703) 746-5532 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, 7th Floor Receptionist.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

Calvin Loyd Hewitt II

July 29, 2002

JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600